

House File 2277 - Introduced

HOUSE FILE 2277

BY WINDSCHITL

A BILL FOR

1 An Act relating to the accrual of earned time credits for
2 inmates committed to the custody of the director of the
3 department of corrections.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 124.401E, subsection 3, Code Supplement
2 2011, is amended to read as follows:

3 3. If a court sentences a person for the person's second or
4 subsequent conviction for delivery or possession with intent
5 to deliver a controlled substance under section 124.401,
6 subsection 1, and the controlled substance is amphetamine, its
7 salts, isomers, or salts of its isomers, or methamphetamine,
8 its salts, isomers, or salts of its isomers, the court, in
9 addition to any other authorized penalties, shall sentence the
10 person to imprisonment in accordance with section 124.401,
11 subsection 1, ~~and the person shall serve the minimum period of~~
12 ~~confinement as required by section 124.413.~~

13 Sec. 2. Section 124.406, subsection 1, paragraph a, Code
14 2011, is amended to read as follows:

15 a. Unlawfully distributes or possesses with intent to
16 distribute a substance listed in schedule I or II to a person
17 under eighteen years of age commits a class "B" felony ~~and~~
18 ~~shall serve a minimum term of confinement of five years.~~
19 ~~However, if the substance was distributed in or on, or within~~
20 ~~one thousand feet of, the real property comprising a public or~~
21 ~~private elementary or secondary school, public park, public~~
22 ~~swimming pool, public recreation center, or on a marked school~~
23 ~~bus, the person shall serve a minimum term of confinement of~~
24 ~~ten years.~~

25 Sec. 3. Section 124.406, subsection 2, paragraph a, Code
26 2011, is amended to read as follows:

27 a. Unlawfully distributes or possesses with the intent to
28 distribute a counterfeit substance listed in schedule I or
29 II, or a simulated controlled substance represented to be a
30 substance classified in schedule I or II, to a person under
31 eighteen years of age commits a class "B" felony. ~~However, if~~
32 ~~the substance was distributed in or on, or within one thousand~~
33 ~~feet of, the real property comprising a public or private~~
34 ~~elementary or secondary school, public park, public swimming~~
35 ~~pool, public recreation center, or on a marked school bus, the~~

1 ~~person shall serve a minimum term of confinement of ten years.~~

2 Sec. 4. Section 232.45, subsection 14, paragraph a, Code
3 2011, is amended to read as follows:

4 a. If a child who is alleged to have delivered,
5 manufactured, or possessed with intent to deliver or
6 manufacture, a controlled substance except marijuana, as
7 defined in chapter 124, is waived to district court for
8 prosecution, ~~the mandatory minimum sentence provided in section~~
9 ~~124.413 shall not be imposed if a conviction is had; however,~~
10 each child convicted of such an offense shall be confined for
11 not less than thirty days in a secure facility.

12 Sec. 5. Section 901.5, subsection 2, Code Supplement 2011,
13 is amended to read as follows:

14 2. ~~If the defendant is not an habitual offender as defined~~
15 ~~by section 902.8, the~~ The court may pronounce judgment and
16 impose a fine.

17 Sec. 6. **NEW SECTION.** **901.11 Criminal provisions —**
18 **application to 2011 Code and Code Supplement.**

19 The portions of sections 124.401E, 124.406, 232.45, 901.5,
20 903A.2, 903A.5, 903A.7, 905.6, 906.4, and 906.15, as amended by
21 this Act, and sections 124.413, 821.4, 901.10, 902.7, 902.8,
22 902.8A, 902.11, 902.12, and 905.11, as repealed by this Act,
23 as the portions of those sections and those sections appear in
24 the 2011 Code and Code Supplement, remain effective for inmates
25 sentenced for offenses committed prior to July 1, 2012.

26 Sec. 7. Section 903A.2, subsection 1, paragraph a,
27 unnumbered paragraph 1, Code Supplement 2011, is amended to
28 read as follows:

29 Category "A" sentences are those sentences for offenses that
30 occurred prior to July 1, 2012, which are not subject to a
31 maximum accumulation of earned time of fifteen percent of the
32 total sentence of confinement under section 902.12, Code 2011.
33 To the extent provided in subsection 5, category "A" sentences
34 also include life sentences imposed under section 902.1. An
35 inmate of an institution under the control of the department of

1 corrections who is serving a category "A" sentence is eligible
2 for a reduction of sentence equal to one and two-tenths
3 days for each day the inmate demonstrates good conduct and
4 satisfactorily participates in any program or placement status
5 identified by the director to earn the reduction. The programs
6 include but are not limited to the following:

7 Sec. 8. Section 903A.2, subsection 1, paragraph b, Code
8 Supplement 2011, is amended to read as follows:

9 b. Category "B" sentences are those sentences for offenses
10 that occurred prior to July 1, 2012, which are subject to
11 a maximum accumulation of earned time of fifteen percent
12 of the total sentence of confinement under section 902.12,
13 Code 2011. An inmate of an institution under the control of
14 the department of corrections who is serving a category "B"
15 sentence is eligible for a reduction of sentence equal to
16 fifteen eighty-fifths of a day for each day of good conduct by
17 the inmate.

18 Sec. 9. Section 903A.2, subsection 1, Code Supplement 2011,
19 is amended by adding the following new paragraph:

20 NEW PARAGRAPH. c. Notwithstanding any other provision
21 of law to the contrary, category "C" sentences include all
22 criminal offenses that occur on or after July 1, 2012. A
23 category "C" sentence is subject to a maximum accumulation
24 of earned time of ten percent of the total sentence of
25 confinement. To the extent provided in subsection 5, category
26 "C" sentences also include life sentences imposed under section
27 902.1. An inmate of an institution under the control of
28 the department of corrections who is serving a category "C"
29 sentence is eligible for a reduction of sentence equal to
30 one-fifteenth of a day for each day of good conduct by the
31 inmate.

32 Sec. 10. Section 903A.5, subsection 1, Code Supplement
33 2011, is amended to read as follows:

34 1. An inmate shall not be discharged from the custody
35 of the director of the Iowa department of corrections until

1 the inmate has served the full term for which the inmate was
2 sentenced, less earned time and other credits earned and not
3 forfeited, unless the inmate is pardoned or otherwise legally
4 released. ~~Earned time accrued and not forfeited shall apply~~
5 ~~to reduce a mandatory minimum sentence being served pursuant~~
6 ~~to section 124.406, 124.413, 902.7, 902.8, 902.8A, or 902.11.~~
7 An inmate shall be deemed to be serving the sentence from the
8 day on which the inmate is received into the institution. If
9 an inmate was confined to a county jail, municipal holding
10 facility, or other correctional or mental facility at any time
11 prior to sentencing, or after sentencing but prior to the case
12 having been decided on appeal, because of failure to furnish
13 bail or because of being charged with a nonbailable offense,
14 the inmate shall be given credit for the days already served
15 upon the term of the sentence. However, if a person commits
16 any offense while confined in a county jail, municipal holding
17 facility, or other correctional or mental health facility,
18 the person shall not be granted credit for that offense.
19 Unless the inmate was confined in a correctional facility, the
20 sheriff of the county in which the inmate was confined or the
21 officer in charge of the municipal holding facility in which
22 the inmate was confined shall certify to the clerk of the
23 district court from which the inmate was sentenced and to the
24 department of corrections' records administrator at the Iowa
25 medical and classification center the number of days so served.
26 The department of corrections' records administrator, or the
27 administrator's designee, shall apply credit as ordered by the
28 court of proper jurisdiction or as authorized by this section
29 and section 907.3, subsection 3.

30 Sec. 11. Section 903A.7, Code 2011, is amended to read as
31 follows:

32 **903A.7 Separate sentences.**

33 1. Consecutive multiple sentences that are within the
34 same category under section 903A.2 shall be construed as one
35 continuous sentence for purposes of calculating reductions

1 of sentence for earned time. If a person is sentenced to
2 serve sentences of both categories, category "B" sentences
3 shall be served before category "A" sentences are served,
4 and earned time accrued against the category "B" sentences
5 shall not be used to reduce the category "A" sentences. If an
6 inmate serving a category "A" sentence is sentenced to serve
7 a category "B" sentence, the category "A" sentence shall be
8 interrupted, and no further earned time shall accrue against
9 that sentence until the category "B" sentence is completed.

10 2. If an inmate is sentenced to serve a category "C"
11 sentence while also serving a category "A" or category "B"
12 sentence, the category "A" or category "B" sentence shall be
13 interrupted, and no further earned time shall accrue against
14 that sentence until the category "C" sentence is completed.
15 Earned time accrued against a category "C" sentence shall not
16 be used to reduce a category "A" or category "B" sentence.

17 Sec. 12. Section 905.6, subsection 9, Code 2011, is amended
18 by striking the subsection.

19 Sec. 13. Section 906.4, subsection 2, paragraph a, Code
20 2011, is amended by striking the paragraph.

21 Sec. 14. Section 906.15, unnumbered paragraph 1, Code 2011,
22 is amended to read as follows:

23 Unless sooner discharged, a person released on parole shall
24 be discharged when the person's term of parole equals the
25 period of imprisonment specified in the person's sentence,
26 less all time served in confinement. Discharge from parole
27 may be granted prior to such time, when an early discharge is
28 appropriate. The board shall periodically review all paroles,
29 and when the board determines that any person on parole is able
30 and willing to fulfill the obligations of a law-abiding citizen
31 without further supervision, the board shall discharge the
32 person from parole. A parole officer shall periodically review
33 all paroles assigned to the parole officer, and when the parole
34 officer determines that any person assigned to the officer is
35 able and willing to fulfill the obligations of a law-abiding

1 citizen without further supervision, the officer may discharge
 2 the person from parole after notification and approval of the
 3 district director and notification of the board of parole. In
 4 any event, discharge from parole shall terminate the person's
 5 sentence. If a person has been sentenced to a special sentence
 6 under section 903B.1 or 903B.2, the person may be discharged
 7 early from the sentence in the same manner as any other person
 8 on parole. However, a person convicted of a violation of
 9 section 709.3, 709.4, or 709.8 committed on or with a child, ~~or~~
 10 ~~a person serving a sentence under section 902.12,~~ shall not be
 11 discharged from parole until the person's term of parole equals
 12 the period of imprisonment specified in the person's sentence,
 13 less all time served in confinement.

14 Sec. 15. REPEAL. Sections 124.413, 821.4, 901.10, 902.7,
 15 902.8, 902.8A, 902.11, 902.12, and 905.11, Code 2011, are
 16 repealed.

17 EXPLANATION

18 This bill relates to the accrual of earned time credits
 19 for inmates committed to the custody of the director of the
 20 department of corrections.

21 The bill creates a new sentence category for the purpose
 22 of calculating earned time and restricts the current sentence
 23 categories (category "A" and category "B" sentences) to those
 24 offenses occurring prior to July 1, 2012. The bill requires
 25 that all criminal offenses committed on or after July 1, 2012
 26 (category "C" sentence), be subject to the maximum accumulation
 27 of earned time credits of 10 percent of the total sentence of
 28 confinement.

29 An inmate of an institution who is serving a category "C"
 30 sentence is eligible for a reduction of the sentence equal to
 31 one-fifteenth of a day for each day of good conduct by the
 32 inmate. Under current law, a person serving a category "A"
 33 sentence is eligible to receive one and two-tenths days for
 34 every day of good conduct, and a person serving a category "B"
 35 sentence is eligible to receive fifteen eighty-fifths of a day

1 for each day of good conduct.

2 The bill requires a person who commits a criminal offense
3 on or after July 1, 2012, and is sentenced to a term of
4 confinement to serve at least 90 percent of the term of
5 confinement in prison prior to being eligible for parole. The
6 earned time accrued under a category "C" sentence, like all
7 earned time, reduces the overall length of the sentence before
8 the person is required to be discharged from the sentence;
9 however, the bill limits the maximum accumulation of earned
10 time for a category "C" sentence to 10 percent of the total
11 sentence of confinement.

12 The bill specifies that earned time credits accrued by an
13 inmate serving a category "C" life sentence shall not reduce
14 a life sentence but shall be credited against the inmate's
15 sentence if the life sentence is commuted to a term of years
16 under Code section 902.2.

17 Under the bill, if an inmate is sentenced to serve a category
18 "C" sentence while also serving a sentence for an offense
19 committed prior to July 1, 2012, the sentence for the prior
20 offense shall be interrupted, and no further earned time shall
21 accrue against that sentence until the category "C" sentence is
22 completed. The bill specifies that earned time accrued against
23 a category "C" sentence shall not be used to reduce a sentence
24 for an offense committed prior to July 1, 2012.

25 The bill strikes numerous mandatory minimum sentences from
26 the Code because the current mandatory minimum sentence would
27 be less than the mandatory length of the sentence prescribed
28 in the bill.

29 The mandatory minimum sentences in Code section 124.406,
30 relating to distribution of controlled substances to minors,
31 are stricken by the bill.

32 The following mandatory minimum sentences and related
33 provisions are also repealed by the bill: Code sections
34 124.413 (controlled substance offenses), 901.10 (reduction
35 of sentences), 902.7 (minimum sentence use of a dangerous

1 weapon), 902.8 (minimum sentence - habitual offender), 902.8A
2 (minimum sentence for methamphetamines or amphetamines), 902.11
3 (minimum sentence - prior forcible felony), 902.12 (70 percent
4 sentences), and 905.11 (residential facility requirement for
5 70 percent offenders).

6 The bill does not modify any class "A" felony sentence
7 other than for a person convicted of a class "A" felony for
8 an offense committed on or after July 1, 2012, will accrue
9 less earned time than previous class "A" felons. Earned time
10 accrued by a class "A" felon only reduces the sentence if the
11 governor commutes the sentence to a term of years in Code
12 section 902.2.